IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FOURTEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION NO : 35647 of 1998

Between:

C. Narsimha Rao S/o. Venkateswarlu
R/o. 143, Upadyanagar, Venkatagiri Town,
Nellore District.

..... PETITIONER

AND

1 The Registrar of Co-operative Societies
Gruhakalpa, Nellore.
2 The Nellore District Co-operative Central Bank Limited Rep. by

its Chairman, Nellore.
3 The General Manager, Nellore District Co-operative Central

Bank Limited, Nellore.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order direction or writ particularly one in the nature of Writ of Mandamus or any other appropriate writ declaring the action of the respondents in (i) not extending four service weightages as per the judgment in W.P.No. 13528/96 dt.11-8-1997; (ii) not taking the service from 1-6-1970 to 19-4-1985 for the purpose of gratuity and (iii) in not treating the service from 2-6-1977 as continuous for the purpose of pensionary benefits; (iv) and in not extending all consequential benefits, as illegal and arbitrary and consequently direct the respondents (1) to extend the four service weightages with effect from 2-6-1977, (2) to pay the gratuity treating the service from 1-6-1970 to 19-4-1985 for the purpose of gratuity on retirement on 31-7-1996 (3) to extend the pensionary benefits duly taking entry into service as including silver jubilee increment 2-6-1977 (4) and pay interest at 24% together with consequential reliefs.

Counsel for the Petitioner: MR.G.VIDYASAGAR

Counsel for Respondent No.1: GP FOR COOPERATION

Counsel for Respondents 2 & 3:MR.K.MURALIDHAR REDDY

The Court made the following

O R D E R:

This writ petition is filed seeking a Mandamus declaring the action of the respondents in

i. not extending four service weightages as per the judgment in W.P. No.13528 of 1996, dated 11-08-1997;

ii. not taking the service from 01-06-1970 to 19-04-1985 for the purpose of gratuity;

iii. in not treating the service from 02-06-1977 as continuous for the purpose of pensionary benefits and

iv. not extending all consequential benefits

as arbitrary and illegal and consequently direct the respondents

1. to extend the four service weightages with effect from 02-06-1977;

2. to pay the gratuity treating the period of service from 01-06-1970 to 19-04-1985 for the purpose of gratuity on retirement on 31-07-1996;

3. to extend the pensionary benefits duly taking entry into service as including silver jubilee increment from 02-06-1977 and

4. pay interest at 24% together with consequential reliefs.

It is the case of the petitioner that he was initially appointed on 01-06-1970 as a Fulltime Paid Secretary in the Kalapadu Multipurpose Cooperative Society, Kalapadu, Venkatagiri Taluk, Nellore District. The Society was ceded to the State Bank of India, Venkatagiri Branch. The Government vide G.O.Ms.No.155, dated 11-

03-1977 authorised for appointment of Fulltime Paid Secretaries in the Primary Agricultural Cooperative Societies. Further, the Government vide G.O.Ms.No.198, Food & Agriculture (Cooperative-IV) Department, dated 28-03-1978, framed Regulations, under Section 116(A) of the Andhra Pradesh Cooperative Societies Act, for creating a common cadre for the Paid Secretaries of Primary Agricultural Cooperative Societies. The petitioner was entitled to be included in the said common cadre, but apparently by mistake, he was not considered for inclusion, therefore, he made a representation to the Registrar of the Cooperative Societies for inclusion of his name in the common cadre and also to extend the benefits as applicable to the Paid Secretaries in the common cadre. On consideration of his representation, the Registrar of Cooperative Societies vide his proceedings dated 12-01-1982, 08-03-1982 and 14-05-1982 directed the Chairman, Appointment Committee of the Paid Secretaries to consider the candidature of the petitioner for absorption and to give him appropriate seniority in the common cadre. The Registrar further directed that the post in the next higher cadre i.e. Category-V should be reserved, so that the said post could be filled up after considering the candidature of the petitioner in the common cadre. The Appointment Committee found the petitioner suitable for absorption in 1980. Accordingly, based on the recommendations of the Appointment Committee, the Nellore District Cooperative Central Bank Limited (for short “NDCCB”) by its resolution dated 07-02-1983, resolved to give the petitioner seniority due from the date of his appointment i.e. 01-06-1970. However, by the same resolution, it was resolved that his case could not be considered for promotion to Category-V as he had crossed 40 years of age on the date of selection i.e., 20-02-1982. Aggrieved by the same, the petitioner filed W.P.No.10316 of 1983 before this Court and the said writ petition was allowed directing the respondents therein to consider the case of the petitioner for promotion from the post of Paid Secretary to the post of Category-V from the date on which his juniors were promoted. Accordingly, proceedings dated 19-04-1985 were issued promoting the petitioner to Category-V post. Subsequently, through a memo dated 16-12-1988, notional increments have also been sanctioned to the petitioner with effect from 02-06-1977, the date on which he was absorbed into the service of the bank and arrears were also paid from 25-04-1985. While so, NDCCB has released Golden Jubilee Function Increment vide proceedings dated 27-06-1991. Though the petitioner was also entitled to the said benefit as he was also working in the same bank since 02-06-1977 on par with the other employees, the respondents issued proceedings

dated 26-04-1996 withdrawing the Golden Jubilee Increment granted to the petitioner alone. The grievance of the petitioner is that he has retired from service on attaining the age of superannuation on 31-07-1996, but while retiring him from service, he was paid only 11 months gratuity vide proceedings dated 02-04-1998 duly taking his services from 19-04-1985 only, whereas, as per the award of the Industrial Tribunal, in I.D.No.13 of 1967, the employees of the Cooperative Bank are entitled to one month pay for every year of service subject to a maximum 15 months. If the services of the petitioner were counted from 01-06-1970 to 31-07-1996, he would be entitled to 26 years of service benefit for the purpose of gratuity. Further, for the purpose of pension, the services of the petitioner were taken into consideration from 19-04-1985, whereas the period of service ought to have been counted from 01-06-1970 or 02-06-1977, the date on which he was absorbed into Category-V services of the bank and he was also not given the four service weightages with effect from 02-06-1997. Hence, this writ petition.

A detailed counter-affidavit has been filed by the respondents denying the allegations made by the petitioner and asserting that the petitioner was appointed and reported to duty on 01-06-1970 as Paid Secretary in the Kalapadu Primary Agricultural Cooperative Society ceded to the State Bank of India, Venkatagiri Branch on a consolidated pay of Rs.150/- per month. The Paid Secretaries of Primary Agricultural Cooperative Societies in Andhra Pradesh State have gone on a strike and the issues arising out of the charter of demands were discussed and based on the agreement reached, the Registrar of Cooperative Societies, Andhra Pradesh has issued proceedings dated 03-04-1981, wherein the Paid Secretaries were given one weightage for every 18 months of completed service. The petitioner was already given the benefit of four weightages as Paid Secretary. Further in W.P.No.10316 of 1983, this Court allowed the writ petition and directed that the petitioner be selected to the post of Category-V from the date on which his juniors were promoted in 1977 i.e. 02-06-1977. Accordingly, he was selected and appointed to Category-V and he was given notional increments with effect from 02-06-1977 on par with his juniors and the financial benefit was effected from 25-04-1985 as he had joined actually in the services of the NDCCB in Category-V and it is not a promotion as contended by the petitioner. In fact, the petitioner worked as a Paid Secretary till joining in the NDCCB in Category-V and availed the benefits that were given by the

Registrar of the Cooperative Societies, Andhra Pradesh, in his proceedings dated 03-04-1981. As such the petitioner is not entitled to the weightages in Category-V of NDCCB, since the appointment of the petitioner to the category-V was a fresh appointment through a regular selection and both the institutions are autonomous and separate from each other. The services of the petitioner in Category-V were not in continuation of his services as Paid Secretary. Consequently, the services rendered by the petitioner in Kalapadu Primary Agricultural Cooperative Society with effect from 1970 cannot be taken into consideration for the purpose of gratuity, pension etc and he is also not eligible for the weightages in Category-V. The writ petition is devoid of merits and liable to be dismissed.

I have given my earnest consideration to the respective submissions of learned counsel on either side and also gone through the material available on record.

At the out set, I am of the opinion that the respondents have not taken consistent stands in denying the benefits to the petitioner. It is a fact that the petitioner filed W.P.No.10316 of 1983 seeking his absorption in the common cadre post of Paid Secretaries on par with other employees of the Primary Agricultural Cooperative Societies. This Court by order dated 30-10-1984 directed the Registrar to consider the case of the petitioner for promotion from the post of Paid Secretary to the post of Category-V from the date on which his juniors were promoted. In fact the respondents have implemented the said orders of this Court by proceedings dated 19-04-1985, which reads as under.

> *"Sri C.Narasimha Rao, Secretary, Kalapadu Primary Agricultural Cooperative Society who has been selected by the Adhoc committee for appointment in Category-V post in the Nellore District Cooperative Central Bank in terms of Registrar of Cooperative Societies Letter Rc.No.106038/83/CL(AB), dated 22-01-1985 has been appointed temporarily in V Category in the services of the Bank as Supervisor/Clerk in the time scale of Rs.264-11-286-13-312-18-348-22-472-26-576-33-708 plus usual allowances admissible as per Rules.*

He should remit cash security of Rs.250/- and also to produce the originals regarding his educational qualifications, before he joins duty. His appointment will be with effect from the date of his joining in the post only."

Further by letter dated 16-12-1988, it is stated as under:

"Sri C.Narasimha Rao, Clerk/Shroff, Venkatagiri Branch is informed that the orders of the High Court in W.P.No.10314 of 1983 have been implemented by promoting him to V Cadre. In addition, notional increments have also been sanctioned to him from 02-06-1977 to the date of his appointment and an amount of Rs.11969-39 was paid towards arrears as per Board resolution dated 07-08-1987. He is finally informed that no further representation can be considered in the matter."

From the above, it is clear that the petitioner was promoted to Category-V cadre in the respondent-bank and in addition to that notional increments have also been sanctioned to him from 02-06-1977 to the date of appointment and arrears were also paid therefor as per the resolution of the Board, dated 07-08-1987. Therefore, the contention of the respondents that the services rendered by the petitioner in Kalapadu, Primary Agricultural Cooperative Society, cannot be taken into consideration for the purpose of gratuity cannot be countenanced. It is not the case of the respondents that the services rendered by the petitioner in Kalapadu Primary Agricultural Cooperative Society were not considered for the purpose of absorption or he was not considered to the common cadre Category-V of the Bank on promotion. Once the petitioner was absorbed as per the claim made by him and also in view of the directions of this Court in W.P.No.10316 of 1983, dated 30-10-1994, it must be deemed that the petitioner was absorbed in the common cadre Category-V and he is also entitled to reckon the services rendered by him in the Kalapadu Primary Agricultural Cooperative Society right from the date of his initial appointment i.e. 01-06-1970 for the purpose of gratuity. Insofar as the pensionary benefits are concerned, in view of the letter issued by the Bank, dated 19-04-1985 read with the letter dated 16-12-1988, the petitioner is also entitled to the pensionary benefits as prayed by him from 02-06-1977 till the date of his retirement on 31-07-1996. Under the above circumstances, the petitioner is also entitled to the four weightages as

was extended to the other Paid Secretaries, who were absorbed into the services of the bank in Category-V.

In the result, the respondents are directed to

1. treat the period from 01-06-1970 till the date of retirement of the petitioner for the purpose of paying gratuity;

2. count the period from 02-06-1977 till the date of his retirement for the purpose of pensionary benefits for the services rendered by him in the respondent-bank and

3. further to grant four weightages to the petitioner as was given to the other common cadre employees absorbed into Category-V in the respondent-bank.

Since the petitioner has retired from service in 1996, it is desirable that the respondents shall settle all the arrears as per the above directions, within a period of three months from the date of receipt of a copy of this order.

The writ petition is allowed to the extent indicated above. No order as to costs.

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(C.V.Ramulu,J)

Date:14th July, 2005

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The Rule nisi has been made absolute as above.

Witness the Hon’ble Sri Bilal Nazki, the Acting Chief Justice on this Thursday, the

Fourteenth day of July

Two Thousand and Five.

To

1 The Registrar of Co-operative Societies
Gruhakalpa, Nellore.
2 The Chairman, Nellore District Co-operative Central Bank

Limited, Nellore.
3 The General Manager, Nellore District Co-operative Central

Bank Limited, Nellore.

4 Two CCs to the Government Pleader for Cooperation, High

Court Buildings, A.P., Hyderabad. (O.U.T.)

5 Two CD copies.